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IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA

In Re TFT-LCD (FLAT PANEL))	No.: M-07-1827 SI
ANTITRUST LITIGATION)	MDL No. 1827
)	State of Illinois'
)	Motion to Intervene
This document relates to:)	Date: February 5, 2010
)	Time: 9 a.m.
ALL ACTIONS.)	Dept.: Courtroom 10, 19 th Floor
)	Judge: Honorable Susan Illston

18 **Notice of Motion and Motion**
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PLEASE TAKE NOTICE that on Friday, February 5, 2010, at 9 a.m., or soon
 thereafter as the matter may be heard, the People of the State of Illinois, by its
 Attorney General, Lisa Madigan, will present this Motion in Courtroom 10, 19th
 Floor, 450 Golden Gate Ave., San Francisco, California, before the Honorable Susan
 Illston.
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In this Motion, the Attorney General asks the Court, pursuant to Federal Rule
 of Civil Procedure 24(b), for an order granting the State of Illinois permission to
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1 intervene in this action for the limited purpose of seeking clarification or
2 modification of this Court's Stipulated Protective Order.

Memorandum of Points and Authorities

I. Issue Statement

FRCP 24(b) allows a person to intervene in an action to challenge a protective order. The Illinois Attorney General seeks to intervene to ask this Court to clarify or modify the protective order issued in this case. May the Attorney General intervene?

II. Facts

The Attorney General is investigating whether the Defendants in this case violated the Illinois Antitrust Act by engaging in the same conduct alleged in this case. Under the act, the Attorney General issued a subpoena to Defendant AU Optronics Corp. America (“AUA”) seeking documents, including those AUA received during discovery in this case.

Several other Defendants, however, asked an Illinois court to quash the subpoena as to the documents they produced to AUA. The Illinois court quashed the subpoena on December 18, 2009, based on those Defendants' interpretation of this Court's Stipulated Protective Order. The Illinois court held that the Stipulated Protective Order prohibits AUA from producing those Defendants' documents in response to the Attorney General's subpoena and prevents AUA from having those documents in its possession, custody, or control.

1 The Attorney General intends to move for reconsideration. To support that
2 motion, the Attorney General would like to request this Court to clarify or modify
3 the Stipulated Protective Order. For the limited purpose of making that request, the
4 Attorney General seeks permission to intervene.
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6 **III. Argument**

7 Federal Rule of Civil Procedure 24(b) permits a person to intervene in an action
8 who "has a claim or defense that shares with the main action a common question of
9 law or fact."¹ Generally, permissive intervention requires (1) an independent ground
10 for jurisdiction, (2) a timely motion, and (3) a common question of law or fact
11 between the person's claim or defense and the main action.²
12

13 Courts, including the Ninth Circuit Court of Appeals, widely approve using Rule
14 24(b) as a method of seeking modification of a protective order.³ A court has
15 jurisdiction to modify its own protective orders,⁴ and access to documents prepared
16 for similar litigation involving the same parties satisfies the commonality
17 requirement.⁵
18

19 Here, this Court has jurisdiction to clarify or modify its Stipulated Protective
20 Order. The meaning of that protective order is a common issue of law. Further, the
21

22 ¹ FRCP 24(b)(1)(B).

23 ² *Beckman Indus., Inc. v. Int'l Ins. Co.*, 966 F.2d 470, 473 (9th Cir. 1992).

24 ³ *Id.*

25 ⁴ *Id.*

26 ⁵ *Id.* at 474.

1 Attorney General seeks access to documents produced in this case in preparation for
2 similar litigation involving the same Defendants and the same issues.

3
4 **IV. Conclusion**

5 The Illinois Attorney General asks this Court to grant her permission to
6 intervene in this action for the limited purpose of seeking clarification or
7 modification of the Stipulated Protective Order.
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10 Dated: January 11, 2010

Respectfully submitted,

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12 The State of Illinois,
13 by Lisa Madigan,
Attorney General of Illinois
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By: Blake L. Harrop

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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

In Re TFT-LCD (FLAT PANEL))	No.: M-07-1827 SI
ANTITRUST LITIGATION)	MDL No. 1827
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)	
)	
)	
This document relates to:)	[Proposed] Order Granting
)	Illinois' Motion to Intervene
ALL ACTIONS.)	
)	

Having considered the State of Illinois' Motion to Intervene, as well as all papers filed in support thereof or in opposition thereto, and having entertained any argument of counsel,

IT IS HEREBY ORDERED that the Motion is **GRANTED** so that the State of Illinois may intervene in this action for the limited purpose of seeking clarification or modification of the Stipulated Protective Order.

IT IS SO ORDRED.

Dated: _____, 2010

**Hon. Susan Illston
United States District Judge**